

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

July 30, 2013

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Tuesday, July 30, 2013, at 2:00 p.m. in the Verbena Room at the Westin La Paloma, which is located at 3800 East Sunrise Drive in Tucson.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Kenneth Angle	Graham County Attorney
Brad Carlyon	Navajo County Attorney
Aaron Carreon-Ainsa	Phoenix City Prosecutor
Jon Eliason	Mesa City Prosecutor
Baird Greene	Tucson City Prosecutor
Tom Horne	Arizona Attorney General
Barbara LaWall	Pima County Attorney
Bill Montgomery	Maricopa County Attorney
Derek Rapier	Greenlee County Attorney
Ed Rheinheimer	Cochise County Attorney
Tony Rogers	La Paz County Attorney
Tobin Sidles	Oro Valley Town Prosecutor
Matt Smith	Mohave County Attorney (telephonic)
Lando Voyles	Pinal County Attorney
P. Rob Walecki	Glendale City Prosecutor
Michael Whiting	Apache County Attorney

COUNCIL MEMBERS PRESENT BY PROXY

Dave Byers	AZ Supreme Court Proxy Jerry Landau
David Rozema	Coconino County Attorney Proxy Michael Lessler
George Silva	Santa Cruz County Attorney Proxy Liliana Ortega
Jon Smith	Yuma County Attorney Proxy Roger Nelson

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Kim MacEachern	Staff Attorney
Denise Helm	Executive Assistant
Diana Cooney	Legal Secretary II

VISITORS

Clarence Carter	D.E.S. Director
Joseph Cuffari	Policy Advisor, Office of the Governor
Karen Hobbs	La Paz Chief Deputy County Attorney
Kellie Johnson	Pima Chief Deputy County Attorney
Greg McKay	Chief, DES Office of Child Welfare Investigations
Andrew Pacheco	Assistant Attorney General
Ed Truman	Assistant Attorney General

CONSENT AGENDA

Mr. Tobin Sidles made a motion, seconded by Mr. Brad Carlyon, to approve the consent Agenda. Mr. Bill Montgomery asked that the minutes from the June 19, 2013, Council meeting be amended to reflect his attendance by proxy Mr. Mark Faull. Amendment was accepted and motion carried.

INTRODUCTION OF DR. JOE CUFFARI

Ms. Elizabeth Ortiz introduced Dr. Joe Cuffari as the new Policy Advisor for the Office of the Governor.

OVERVIEW OF OFFICE OF CHILD WELFARE

D.E.S. Director Clarence Carter spoke on his goal to strengthen the current Child Protective Service agency (CPS) by involving civilian investigators into the process. He stated that Mr. Montgomery chaired the Governor's Child Welfare Task Force, which created the newly formed Office of Child Welfare Investigations (OCWI). Director Carter introduced the chief of OCWI, Detective Greg McKay, who provided Council Members with a PowerPoint presentation on the agency's mission, goals, and protocols. Det. McKay invited questions, comments, and other feedback be directed to him.

PROPOSED APAAC NATIONAL CRIME VICTIMS' RIGHTS AWARD

Ms. Ortiz proposed that APAAC, current co-sponsors with several member agencies of the annual National Crime Victims' Rights luncheon held in Phoenix, establish an award to be presented at future annual ceremonies.

Ms. Barbara LaWall made a motion, seconded by Mr. Carlyon, that APAAC staff draft criteria for such an award, for consideration by the Council. Motion carried. Ms. Ortiz indicated that the proposed award criteria will be presented to the Council at the September 6, 2013, meeting for review and approval consideration.

FINANCE COMMITTEE

Mr. Derek Rapier reviewed APAAC's Financial Report and Financial Statement for June 2013, along with the FY2013-14 Cash Flow Projection and Statement. Mr. Rapier noted that

June's revenue was greater than projected, and expenses were within the approved budget, thus increasing APAAC's reserve.

Mr. Rapier made a motion, seconded by Mr. Sidles to approve the Financial Report and Statement for June 2013. Motion carried.

LEGISLATIVE POLICY COMMITTEE

Mr. Carlyon reminded Council Members that now is the time to start thinking about bill topics for next legislative session. LPC will begin meeting in September to discuss these issues. Ideas for bills should be submitted by email to Ms. Kim MacEachern at APAAC.

TRAINING COMMITTEE REPORT

Mr. Sidles directed Council Members to the seminar report which reflects 26 attendees at the Felony Intermediate Advocacy Course held in Flagstaff on June 24-28, 2013; Prosecutorial Misconduct was held at the Maricopa County Attorney's Office on July 24, 2013; and, the APAAC Summer Conference will run July 31-August 2, 2013, in Tucson, Arizona.

NDAA REPORT

Mr. Rapier attended the latest NDAA meeting in San Diego, California, along with Mr. Jon Eliason, Mr. Lando Voyles, Mr. Carlyon and Mr. Montgomery. Mr. Rapier reports that NDAA is still in transition – financially, structurally and directionally; however, he feels their new president, Mr. Henry Garza, is moving them in the right direction. Mr. Rapier provided other NDAA updates regarding the federal grant audit, the new prosecutor training academy at the University of Utah in Salt Lake City, and MCAO's Juan Martinez being honored at the conference with NDAA's "Homerun Hitters" Award.

CHAIR'S REPORT

Ms. Polk reminded Council Members that they will be called up to the stage and introduced to the audience during the Summer Conference opening remarks on July 31, 2013, at 4:30 p.m.

The proposed 2013-14 calendar for Council meetings was provided for review and comment.

Mr. Carlyon suggested the Council have a rural County host a Council meeting during the year. Ms. Polk indicated the Council will consider that option as finances permit.

Mr. Jerry Landau remarked that the September 6, 2013, Council meeting falls on a Jewish holiday.

EXECUTIVE DIRECTOR'S REPORT

Ms. Ortiz reported she made a visit to the following County Attorney Offices: La Paz County on June 21, 2013, and Maricopa County on July 24, 2013. She welcomes invitations to visit other offices for trainings or tours, etc.

Regarding the recent amicus briefs filed by APAAC: The matter of *State v. Cooperman* is still pending review before the Arizona Supreme Court; and the matter of *State v. Okun* was denied review by the Arizona Supreme Court on July 8, 2013.

Mr. Ortiz attended the National Association of Prosecution Coordinators' (NAPC) Summer Conference in San Diego, California, on July 10-12, 2013. She was elected to their Executive Board and will chair the NAPC Information and Technology Committee.

Ms. Ortiz and Ms. MacEachern were in Flagstaff on July 16-18, 2013, for the Pow Wow Conference and attended meetings regarding law enforcement and legislative matters. At the conference, Assistant Attorney General Paula Alleman was recognized as the HIDTA 2013 Prosecutor of the Year.

Ms. Ortiz stated that she is co-chair of the State Bar's Continuing Legal Education (CLE) committee and will also be sitting on the newly formed CLE Task Force to address policy issues.

Ms. Ortiz attended the Arizona Narcotics Officers Association Conference on July 22, 2013, in Tempe. At their luncheon, Mr. Montgomery was honored with a Meritorious Service Award. Also, Deputy Mohave County Attorney Megan McCoy received the ANOA 2013 Prosecutor of the Year award.

Ms. Ortiz reminded Council Members to sign in for Summer Conference Wednesday, July 31, 2013, after 3:00 p.m. in the designated Council Member registration line.

STAFF ATTORNEY REPORT

Ms. MacEachern reminded Council members that the next meeting of APAAC's Medical Marijuana Working Group is July 31, 2013. The group is reviewing proposed training documents, preparing fact sheets to provide data and information for a better understanding of the Arizona Medical Marijuana Act (AMMA) and other issues coming up in prosecution matters; e.g., introducing MMJ card in DUI cases, neighborhood dispensaries, and political alliances. Ms. MacEachern also noted that recently an initiative to legalize recreational marijuana was pulled to collect signatures to get the measure on the ballot.

Ms. MacEachern reported that APAAC's Public Education Working Group is divided into four categories: Juvenile, Prosecutor Misconduct, Medical Marijuana and RICO. The group is preparing drafts of fast facts and talking points on these subjects to present to the Council for approval. Once finalized, these documents will be distributed statewide for discussions with constituents, legislators, and policymakers. The working group is seeking to obtain copies of videos through NAPC to share with Council for their consideration and support for use and distribution by the group.

CALL TO THE PUBLIC

Mr. Landau reported on four different areas of mental health legislation which may directly affect prosecutors: 1) ACJC-NICS proposal dealing with changing our prohibited weapons possessor statute; 2) State Bar committee considering legislation to allow a guardian to apply for a Court order requiring law enforcement to pick up a ward who may be a danger to

himself or others; 3) Hon. Jim McDougall (ret.) proposal to allow inter-county transfer of persons under the jurisdiction of probate court for a treatment order; and 4) Arizona Office of the Courts (AOC) and Deputy Pima County Attorney Kathleen Mayer are working on an approach to dealing with dangerous and incompetent defendants.

Mr. Landau stated that AOC was approached by parties responsible for legislation that enacted the tax in Maricopa County to build and maintain the county jail; however, the use of this money has been expanded to about nine different areas that could tangentially affect prosecution – namely, A.R.S. 42-6109 and 42-6109.01. Mr. Landau suggested APAAC consider discussing possible legislation with other stakeholders that would give other counties the ability to enact the jail tax. The current legislation provides authority to the Board of Supervisors to send jail tax issues to the ballot. The renewal process is a few years out.

Mr. Landau reported the Governor has a committee headed by Ms. Cindy McCain to look at human trafficking. Mr. Landau offered to keep the Council apprised in the event prosecutors are interested in being involved in any systemic approach to resolving this issue.

Mr. Landau is currently serving as the Court's interim Public Information Officer.

Ms. Polk invited Council Members to attend the Arizona County Attorneys and Sheriffs Association meeting being held in conjunction with the AACo Conference at the Wigwam Resort in Phoenix on August 20, 2013, at 2:00 p.m. Mr. Montgomery is the Chair of ACASA and asked Ms. Polk to do a presentation on marijuana. This presentation will focus on the several related issues; real facts about marijuana; the Medical Marijuana Act and the legal issues that have emerged; issues prosecutors are dealing with, and related court cases to date. This presentation is the product of the APAAC working group, and the materials, including a fact sheet with sources, will be provided in print form and on a flash drive and/or DVD.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held at 10:00 a.m. on Friday, September 6, 2013, at the APAAC Office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 4:00 p.m.